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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,296	08/10/2001	James C. Thomas JR.	45659/FLC/T503	4976
23363	7590	01/27/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP 350 WEST COLORADO BOULEVARD SUITE 500 PASADENA, CA 91105			GORT, ELAINE L	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/927,296	THOMAS, JAMES C.
	Examiner Elaine Gort	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 December 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
 - 4a) Of the above claim(s) 1-22 and 33-44 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 November 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

<input type="checkbox"/> Notice of References Cited (PTO-892)	<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5,6</u> .	<input type="checkbox"/> Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-22 and 33-44 drawn to an invention nonelected with traverse in Paper No. 4. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed operation and execution of the data processing processor and memory must be shown or the feature(s) canceled from the claim(s). The drawings continue to not show an insurance account, credit card account, or a charge to the credit card or a link between the credit card account and insurance account. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It remains unclear in claim 27 what limitation is being claimed in regard to "determining the variable percentage from the amount charged..." It is further unclear how the variable percentage is determined from the amount charged.

It remains unclear in claim 28 what limitation is being claimed in regard to "determining the variable percentage from a balance amount..." It is further unclear how the variable percentage is determined from a balance amount.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 23-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Cummings, Jr. (US Patent 5,301,105).

Cummings, Jr. discloses the claimed data processing system. Cummings, Jr. discloses a processor with memory and program instructions to allow the crediting of an

insurance account each time a charge is made to a credit card account linked to the insurance account (such as when a designated credit card or smart card is charged and the associated insurance account is credited).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over IDX Takes the Lead in Healthcare Billing.

IDX Takes the Lead in Healthcare Billing discloses the claimed device but is silent regarding using a credit card exclusively for medical expenses. It is notoriously old and well known in the art of personal finance to utilize a personal credit card for emergency use only or for specific types of transactions only in order to provide an individual with credit for unforeseen expenses and to allow the user to track a specific type of expenditure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the data processing system of IDX with a designated credit card only for medical expenses in order to provide the user with credit for unforeseen expenses and/or to allow the user to track medical expenditures.

Regarding claim 29, IDX Takes the Lead in Healthcare Billing discloses the claimed data processing system but is silent regarding the ability for users to pay their insurance policy premiums via credit card. It is notoriously old and well known in the art

of bill payment to allow credit card payment to provide customers with easy and convenient payment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the data processing system of IDX Takes the Lead in Healthcare Billing with the ability to pay an insurance policy's premium with a credit card, in order to allow customers to pay their premium conveniently and easily.

Response to Arguments

9. Applicant's arguments filed 11/10/03 have been fully considered but they are not persuasive.

Applicant has argued that Cummings, Jr. does not disclose an insurance account linked to a credit account. Examiner contends that Cummings, Jr. does disclose an insurance account linked to a credit account. The insurance account is linked to the credit card account when the designated credit card or smart card is charged and an associated insurance account is credited the amount, thus the accounts are "linked" at this time. If the credit card account is not linked to the insurance account then no credit to an insurance account will be made as they are not linked.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that Cummings, Jr. does not disclose the linkage between the insurance account and the credit account being crediting the insurance account each time a charge is made to the credit account) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim does not define the linkage in anyway, much less in the way argued.

Applicant has argued that IDX does not disclose an insurance account linked to a credit card account. Examiner contends that IDX does disclose an insurance account linked to a credit account on page 1, in paragraph 3, where it indicates “automatic credit card approval and payment that will post directly into a patient’s account”. The insurance account is connected, or “linked”, to a credit card account at this time.

The insurance account is linked to the credit card account when the designated credit card is charged and associated insurance account is credited the amount, thus the accounts are “linked” at this time.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

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January 24, 2004

Robert P. Olszewski 1/26/04
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
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